

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1967 – HB 2117

April 9, 2014

SUMMARY OF ORIGINAL BILL: Creates a cause of action for making a bad faith assertion of patent infringement. An individual can bring the cause of action, or it can be brought by the Attorney General, which is given authority to enforce the chapter.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (015827): Deletes all language after the enacting clause.

Creates a cause of action for sending or causing to be sent any written or electronic communication that states that the intended recipient or any affiliated person is infringing or has infringed a patent and bears liability or owes compensation to another person if the communication (1) threatens litigation if compensation is not paid and there is a consistent pattern of such threats with no corresponding litigation having been filed; (2) falsely states that litigation has been filed against the intended recipient; or (3) contains assertions lacking a reasonable basis because the person has no right to enforce or license the patent, the patent has been held invalid or unenforceable, the communication seeks compensation for activities undertaken after the patent has expired, or the content of the communication fails to include necessary information to inform an intended recipient of the patent.

Clarifies that the proposed legislation does not apply to advisory statements of ownership or right to enforce, communications that the patent is available for sale or license, notification statements of infringement, or a good faith assertion that the patent has been infringed and for which compensation is sought.

Clarifies that the proposed legislation does not apply to owners of patents that use such patents in connection with substantial research, development, production, manufacturing, processing, or delivery of products or materials; institutions of higher education; technology transfer organizations whose primary purpose is to facilitate the commercialization of technology developed by an institute of higher education; or any business seeking relief under federal patent law.

An individual can bring the cause of action, or it can be brought by the Attorney General, which is given authority to enforce the chapter.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Administrative Office of the Courts, the proposed legislation will not significantly impact the courts.
- It is assumed that most actions will be brought by an individual who receives a demand letter sent in bad faith. It is assumed that any impact upon the Attorney General can be accommodated within existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Lucian D. Geise', is positioned above the printed name.

Lucian D. Geise, Executive Director

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